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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11

12 MILTON McMATH, individually; DEDRICK
13 SHAVERS, individually,

14 Plaintiffs,

15 vs.

Case No.

16 **COMPLAINT FOR DAMAGES FOR**
17 **VIOLATION OF CIVIL RIGHTS.**
18 **JURY TRIAL DEMANDED**

19 CITY OF OAKLAND, a municipal corporation;
20 RICHARD WORD, in his capacity as Chief of
21 Police for the CITY OF OAKLAND; G. LOUD,
22 individually, and in his capacity as a police
23 officer for the CITY OF OAKLAND; S.
24 BOWLING, individually, and in his capacity as
25 a police officer for the CITY OF OAKLAND;
26 F. BONIFACIO, individually, and in his
27 capacity as a police officer for the CITY OF
28 OAKLAND; L. MILIKIN, individually and in
his capacity as a police officer for the CITY OF
OAKLAND; C. HARDISON, individually and
in his capacity as a police officer for the CITY
OF OAKLAND; and, Oakland police officers
DOES 1-25, inclusive,

Defendants.

/

JURISDICTION

1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The

1 unlawful acts and practices alleged herein occurred in the City of Oakland, County of Alameda,
2 California, which is within this judicial district.

3
4 PARTIES

5 2. Plaintiff herein, MILTON McMATH, is and was at all times herein mentioned readily
6 recognizable as an African-America and is and was a citizen of the United States residing in Alameda
7 County in California.

8 3. Plaintiff herein, DEDRICK SHAVERS, is and was at all times herein mentioned
9 readily recognizable as an African-America and is and was a citizen of the United States residing in
10 Alameda County in California.

11 4. Defendant City of Oakland ("CITY") is a municipal corporation, duly organized and
12 existing under the laws of the State of California. The City operates under its authority the Oakland
13 Police Department.

14 5. At all times mentioned herein, Defendant RICHARD WORD ("WORD") was the
15 Chief of Police for the CITY OF OAKLAND. He is being sued in his official capacity as Chief of
16 Police for the CITY OF OAKLAND.

17 6. At all times mentioned herein, Defendant G. LOUD ("LOUD") was employed by
18 Defendant CITY as a police officer. He is being sued individually and in his official capacity as a
19 police officer for the City.

20 7. At all times mentioned herein, Defendant S. BOWLING ("BOWLING") was
21 employed by Defendant CITY as a police officer. He is being sued individually and in his official
22 capacity as a police officer for the City.

23 8. At all times mentioned herein, Defendant F. BONIFACIO ("BONIFACIO") was
24 employed by Defendant CITY as a police officer. He is being sued individually and in his official
25 capacity as a police officer for the City.

26 9. At all times mentioned herein, Defendant L. MILIKIN ("MILIKIN") was employed
27 by Defendant CITY as a police officer. He is being sued individually and in his official capacity as a
28 police officer for the CITY.

1 suspected to be selling drugs in the driveway and yard at that address. When the officers arrived,
2 they reported that a person later identified as Plaintiff DEDRICK SHAVERS fled the scene.
3 According to Defendant Officer LOUD's police report (Oakland Police Department Report Number
4 04-39694 in which Defendant Officer LOUD omitted the initial strike to the back of Plaintiff
5 SHAVERS' head), he pursued Plaintiff SHAVERS on foot and yelled out: "Stop police". Again
6 according to Officer LOUD's police report, Mr. Shavers quickly turned around and suddenly attacked
7 the fully armed and uniformed officer by "trying to hit me with both of his closed fist, he hit me
8 twice with closed fist on my arms. I (Defendant Officer LOUD) hit SHAVERS about six or eight
9 times in his face with a hammer fist, closed fist trying to keep him from striking me or grabbing me
10 which he was trying to do." According to Officer LOUD, they both fell to the ground, wrestling, and
11 thereafter he was able to take Mr. Shaver's into custody without further incident.

12 16. In fact, Plaintiff SHAVERS never attacked Defendant Officer LOUD and possessed
13 no contraband. Plaintiff SHAVERS ran from the officer only after the Defendant Officer LOUD
14 struck him in the back of his head. Plaintiff SHAVERS stopped his flight voluntarily after gaining
15 some distance from Defendant Officer LOUD and asked the officer again what he was doing.
16 Defendant Officer LOUD struck Plaintiff SHAVERS in the face and Plaintiff SHAVERS then ran
17 across the street where he stopped his flight again and honestly told the officer that he did not have
18 anything (contraband) on him. Defendant Officer LOUD ran to Plaintiff SHAVERS again and struck
19 him numerous times in the face. Defendant Officer BOWLING struck Plaintiff SHAVERS in the
20 back of the head even though Plaintiff SHAVERS had taken no offensive action against either
21 officer. Plaintiff SHAVERS fell to his knees as the beating continued. In fact, according to
22 Defendant Officer BOWLING's supplemental police report and trial testimony, Defendant Officer
23 BOWLING struck Plaintiff SHAVERS so hard that he broke his own hand on the back of Plaintiff
24 SHAVERS' head.

25 17. Plaintiff MILTON McMATH, who was nearby talking to Alondra Goodwin, a friend
26 of his, saw Defendant Officers LOUD and BOWLING beating Plaintiff SHAVERS. Plaintiff
27 McMATH, who was not engaged in any illegal activity whatsoever, walked toward the officers and
28 told the officers that their actions against Plaintiff SHAVERS were unnecessary. He questioned why

1 the officers were beating a person who was not fighting back. At least one of the officers told
2 Plaintiff McMATH that it was “police business” and that he should mind his own business. When
3 Plaintiff McMATH questioned the officers’ actions, they stopped beating Plaintiff SHAVERS.
4 Realizing that he had placed himself in harms way, Plaintiff McMATH, who was several feet from
5 the incident, obeyed the officers’ order by turning and walking away from Defendant Officers LOUD
6 and BOWLING.

7 18. As Plaintiff McMATH walked away from the officers, he heard Defendant Officer
8 BOWLING tell Defendant Officer LOUD to “get him.” Plaintiff McMATH assumed the officer was
9 talking about him and turned around to ask the officers what he had done. When he turned,
10 Defendant Officer BOWLING’s fist, which clutched a police flashlight, struck Plaintiff McMATH in
11 the face. Defendant Officer BOWLING then attempted to choke Plaintiff McMATH. Defendant
12 Officer BOWLING then forced Plaintiff McMATH into the hood of a red car parked next to the curb.
13 Plaintiff McMATH had been struck in the face and was dazed, but he did not physically resist the
14 officers.

15 19. Several Oakland Police vehicles and numerous Oakland Police officers arrived on the
16 scene. Plaintiff McMATH told the defendant officers several times that he had not done anything.
17 Defendant Officer BOWLING struck Plaintiff McMATH numerous times around the arms, ribs and
18 back. Other defendant officers, including BONIFACIO and HARDISON arrived. One of defendant
19 officers left a dent in the hood of the red car when he missed an attempted blow to Plaintiff
20 McMATH, striking the hood instead. Numerous people gathered, witnessing the beating of Plaintiff
21 McMATH. Some of them took photographs of the incident.

22 20. Defendant Officer BONIFACIO attempted to place Plaintiff McMATH in a carotid
23 restraint. BONIFACIO states in his police report that he was able to bring Plaintiff McMATH to the
24 ground by applying the carotid restraint, but he then released the hold. Defendant Officer
25 HARDISON then struck Plaintiff McMATH numerous times with his nightstick. Defendant
26 HARDISON’s blows with the nightstick were so uncontrollable that he struck Defendant Officer
27 BONIFACIO in the calf with his nightstick, ultimately sending Defendant Officer BONIFACIO to
28

1 the hospital. Defendant Officer HARDISON then sprayed several shots of O.C. (pepper) spray
2 directly to Plaintiff McMATH's eyes.

3 21. Defendant Officers stood back from Plaintiff McMATH after Defendant Officer
4 HARDISON discharged his O.C. spray. Plaintiff McMATH stood and tried to wipe the spray from
5 his eyes. Defendant Officer MILLIKEN arrived at the scene during the struggle.

6 22. After Plaintiff McMATH stood up and tried to clear his eyes, Defendant Officer
7 MILLIKEN viciously wound up and delivered a crushing "hammer strike" with his fist to Plaintiff
8 McMATH's mouth. The blow dislodged Plaintiff McMATH's right front tooth and sent it flying in
9 the air.

10 23. Plaintiff McMATH, who was not under the influence of any substance, was then
11 handcuffed and arrested on false charges of allegedly battering an officer and resisting, obstructing or
12 delaying an officer in the course of his duties (Penal Code sections 243 and 148). Plaintiff
13 SHAVERS was arrested for allegedly loitering for purposes of drug activity, even though no
14 contraband was ever recovered from anyone as a result of this incident. Plaintiff SHAVERS was also
15 arrested on false charges of: 1) Battery on an Officer with Injury, 2) Battery on an Officer, 3) Assault
16 on an Officer, 4) Resisting, Obstructing, or Delaying an Officer in the course of his duties. Plaintiff
17 SHAVERS was also arrested on two outstanding warrants. Plaintiffs were then transported to
18 Alameda County Hospital where they were treated for their severe injuries sustained during this
19 incident. Thereafter, Plaintiffs were transported to Oakland City Jail.

20 24. Charges against Plaintiff SHAVERS were subsequently dismissed by the Alameda
21 County District Attorney in favor of a parole violation.

22 25. Plaintiff McMATH, who was not on probation or parole at the time of the incident,
23 spent one day in jail before he was released after paying a bail bondsman \$6500 on a bail of \$65,000.
24 Even though charges against Plaintiff SHAVERS were dismissed, Plaintiff McMATH ultimately
25 stood trial before a jury. He testified on his own behalf against the false allegations. Defendant
26 Officers BOWLING, LOUD, BONIFACIO and HARDISON testified against Plaintiff McMATH.
27 Plaintiff McMATH was acquitted of the Penal Code section 243, Battery on an Officer, on February
28 7, 2005. The Penal Code section 148 violation was subsequently dismissed on February 9, 2005.

1 32. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through
2 31 of this Complaint.

3 33. In doing the acts complained of herein, Defendant Officers LOUD, BOWLING,
4 HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10 inclusive, and/or each of them, acted
5 under color of law to deprive Plaintiffs of certain constitutionally protected rights, including, but not
6 limited to:
7

- 8 a. The right to be free from unreasonable searches and seizures, as guaranteed by the
9 Fourth and Fourteenth Amendments to the United States Constitution;
10 b. The right not to be deprived of life or liberty without due process of law, as guaranteed
11 by the Fifth and Fourteenth Amendments to the United States Constitution;
12 c. The right to be free from the use of excessive force by police officers, which is
13 guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the United States
14 Constitution;
15 d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment
16 to the United States Constitution; and/or,
17 e. The right to be free from interference with their zone of privacy, as protected by the
18 Fourth and Ninth Amendments to the United States Constitution;
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22 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

23 SECOND CAUSE OF ACTION

24 (42 U.S.C. section 1983)

25 (Against Defendants CITY, RICHARD WORD, and DOES 11-25)

26 34. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through
27 33 of this Complaint.

28 35. Plaintiffs are informed and believe and thereon allege that high ranking City of

1 Oakland officials, including high ranking police supervisors, such as Defendant RICHARD WORD,
2 DOES 11 through 25, and/or each of them, knew and/or reasonably should have known about the
3 repeated acts of misconduct by defendant officers LOUD, BOWLING, HARDISON, BONIFACIO,
4 MILLIKEN , and DOES 1-10, and/or each of them.
5

6 36. Despite having such notice, Plaintiffs are informed and believe and thereon allege that
7 Defendants WORD, DOES 11-25, and/or each of them, approved, ratified, condoned, encouraged
8 and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil rights
9 violations by these officers.
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11 37. Plaintiffs are further informed and believe and thereon allege that as a result of the
12 deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendants officers
13 LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10, and/or each of
14 them, Defendant WORD, DOES 11-25, and/or each of them, encouraged these officers to continue
15 their course of misconduct, resulting in the violation of the Plaintiffs' rights as alleged herein.
16

17 38. The aforementioned acts and/or omissions and/or deliberate indifference by high
18 ranking City of Oakland officials, including high ranking City of Oakland Police Department
19 supervisors, Defendants WORD, DOES 11-25, and each of them resulted in the deprivation of
20 Plaintiffs' constitutional rights including, but not limited to, the following:
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- 22
- 23 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth
24 and Fourteenth Amendments to the United States Constitution;
 - 25 b. The right not to be deprived of life or liberty without due process of law, as guaranteed by
26 the Fifth and Fourteenth Amendments to the United States Constitution;
27
28

- 1 c. The right to be free from the use of excessive force by police officers, which is
2 guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the United States
3 Constitution;
4
5 d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment to
6 the United States Constitution; and/or,
7
8 e. The right to be free from interference with their zone of privacy, as protected by the
9 Fourth and Ninth Amendments to the United States Constitution;

10 39. Said rights are substantive guarantees under the Fourth and/or Fourteenth
11 Amendments to the United States Constitution.

12 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

13 THIRD CAUSE OF ACTION
14 (42 U.S.C. section 1983)
15 (Against Defendant CITY OF OAKLAND)

16 40. Plaintiffs hereby reallege and incorporate by reference herein paragraphs 1 through 39
17 of this Complaint.

18 41. As against Defendant CITY, Defendant WORD and/or DOES 11-25 in his/their
19 capacity as official policy-maker(s) for the CITY OF OAKLAND, Plaintiff further alleges that the
20 acts and/or omissions alleged in the Complaint herein are indicative and representative of a repeated
21 course of conduct by members of the CITY OF OAKLAND Police Department tantamount to a
22 custom, policy or repeated practice of condoning and tacitly encouraging the abuse of police
23 authority, and disregard for the constitutional rights of citizens.

24
25 42. Plaintiffs are further informed and believe and thereon allege that the acts and
26 omissions alleged herein are the direct and proximate result of the deliberate indifference of
27 Defendants CITY, WORD, DOES 11-25, and each of them, to repeated acts of police misconduct
28

1 which were tacitly authorized, encouraged or condoned by the Defendant CITY, Defendant WORD,
2 DOES 11-25, and each of them.

3 43. The injuries and damages to Plaintiffs as alleged herein were the foreseeable and
4 proximate result of said customs, policies, patterns and/or practices of Defendant CITY, Defendant
5 WORD, DOES 11-25, and each of them.

7 44. Plaintiffs are further informed and believe and thereon allege that the damages
8 sustained as alleged herein were the direct and proximate result of municipal customs and/or policies
9 of deliberate indifference in the training, supervision and/or discipline of members of the Defendant
10 OAKLAND Police Department.

12 45. Plaintiffs are further informed and believe and upon such information and belief allege
13 that Plaintiffs' damages and injuries were caused by customs, policies, patterns or practices of
14 Defendant CITY, Defendant WORD, DOES 11-25, and each of them, of deliberate indifference in
15 the training, supervision and/or discipline of officers LOUD, BOWLING, HARDISON,
16 BONIFACIO, MILLIKEN , and DOES 1-10, and/or each of them.

18 46. The aforementioned customs, policies or practices of Defendant CITY, Defendant
19 WORD, DOES 11-25, and each of them, resulted in the deprivation of Plaintiffs' constitutional rights
20 including, but not limited to, the following:

- 21
- 22 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth
23 and Fourteenth Amendments to the United States Constitution;
 - 24 b. The right not to be deprived of life or liberty without due process of law, as guaranteed by
25 the Fifth and Fourteenth Amendments to the United States Constitution;
 - 26 c. The right to be free from the use of excessive force by police officers, which is guaranteed
27 by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution;
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- 1 d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment to
2 the United States Constitution; and/or,
3
4 e. The right to be free from interference with their zone of privacy, as protected by the
5 Fourth and Ninth Amendments to the United States Constitution.

6 47. Said rights are substantive guarantees under the Fourth and/or Fourteenth
7 Amendments to the United States Constitution.

8 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

9
10 FOURTH CAUSE OF ACTION
(Assault and Battery)
11 (Against Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and
DOES 1-10)

12 48. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 47 of this
13 Complaint.

14
15 49. Defendants Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN ,
16 and DOES 1-10, inclusive, placed Plaintiffs in immediate fear of death and severe bodily harm by
17 attacking and battering them without any just provocation or cause.

18 50. These defendants' conduct was neither privileged nor justified under statute or
19 common law.

20
21 51. As a proximate result of defendants' conduct, Plaintiffs suffered damages as
22 hereinafter set forth.

23 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

24
25 FIFTH CAUSE OF ACTION
(False Arrest and Imprisonment)
26 (Plaintiff McMATH Against Defendant Officers LOUD, BOWLING, HARDISON,
BONIFACIO, MILLIKEN , and DOES 1-10)

27 52. Plaintiff McMATH realleges and incorporates by reference herein paragraphs 1
28 through 51 of this Complaint.

53. Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10, inclusive, falsely arrested and imprisoned Plaintiff without probable cause. Plaintiff had not committed any of the crimes with which he was charged, and there was no basis upon which defendants could have reasonably believed that plaintiff had committed any of the crimes with which he was charged.

54. Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10, inclusive, failed to observe proper procedures in falsely arresting and imprisoning Plaintiff McMATH without probable cause. These defendants exceeded the limits of their authority as police officers in falsely arresting and imprisoning the plaintiff without probable cause, and in using excessive and unnecessary force against plaintiff.

55. As a proximate result of defendants' conduct, Plaintiff suffered damages as hereinafter set forth.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)
(Against Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10)

56. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 55 of this Complaint.

57. The conduct of Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10, inclusive, as set forth herein, was extreme and outrageous and beyond the scope of conduct which should be tolerated by citizens in a democratic and civilized society. Defendants committed these extreme and outrageous acts with the intent to inflict severe mental and emotional distress upon Plaintiffs.

as described herein, was motivated by racial prejudice against Plaintiffs. Plaintiffs are and were readily recognizable as African-American. In engaging in such conduct, Defendants violated Plaintiffs' rights under California Civil Code Section 51.7 to be free from violence, or intimidation by threat of violence committed against him because of their race.

64. Under the provisions of California Civil Code Section 52(b), Defendants are liable for each violation of Civil Code Section 51.7 for punitive damages, an additional \$25,000.00, and for reasonable attorney's fees.

65. As a proximate result of Defendants' wrongful conduct, Plaintiffs suffered damages as hereinafter set forth.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

NINTH CAUSE OF ACTION
(Violation of Civil Code Section 52.1)
(Against Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN, and
DOES 1-10)

66. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 65 of this Complaint.

67. The conduct of Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN, and DOES 1-10, inclusive, as described herein, while acting in the course and scope of their employment for Defendant CITY, violated California Civil Code Section 52.1 in that they interfered with Plaintiffs' exercise and enjoyment of their civil rights. Said interference occurred through the use of wrongful and excessive force, and failure to make any proper or reasonable arrest of said Plaintiffs.

68. As a direct and proximate result of Defendants' violation of Civil Code Section 52.1, Plaintiffs suffered violation of their constitutional rights, and suffered damages as set forth herein.

69. Since this conduct occurred in the course and scope of their employment, Defendant CITY is therefore liable to Plaintiffs pursuant to respondeat superior.

70. Plaintiffs are entitled to injunctive relief and an award of their reasonable attorney's fees pursuant to Civil Code Section 52.1(h).

WHEREFORE, Plaintiffs pray for relief, as hereinafter set forth.

TENTH CAUSE OF ACTION

(Negligence)

(Against Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10)

71. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 70 of this complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

72. At all times herein mentioned, Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN , and DOES 1-10, inclusive, were subject to a duty of care to avoid causing unnecessary physical harm and distress to persons through their use of force and making of arrests. The wrongful conduct of Defendants, as set forth herein, did not comply with the standard of care to be exercised by reasonable persons, proximately causing plaintiffs to suffer injuries and damages as set forth herein. Pursuant to Government Code Section 815.2(a), Defendant CITY is vicariously liable to Plaintiffs for injuries and damages suffered as alleged herein, incurred as a proximate result of the aforementioned wrongful conduct of Defendants.

73. As a proximate result of Defendants' negligent conduct, Plaintiffs suffered severe physical injury, severe emotional and mental distress, injury having a traumatic effect on Plaintiffs' emotional tranquility, and damages.

WHEREFORE, Plaintiffs prays for relief as hereinafter set forth.

ELEVENTH CAUSE OF ACTION
(Negligent Hiring, Retention, Training, Supervision, and Discipline)
(Against Defendants CITY, WORD, and DOES 11-25)

74. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 73 of this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

75. At all times herein mentioned, defendant CITY, by and through its supervisory employees and agents, RICHARD WORD, and DOES 11-25, inclusive, has and had a mandatory duty of care to properly and adequately hire, train, retain, supervise, and discipline its police officers so as to avoid unreasonable risk of harm to citizens. With deliberate indifference, CITY, RICHARD WORD, and DOES 11-25, inclusive, failed to take necessary, proper, or adequate measures in order to prevent the violation of plaintiff's rights and injury to said plaintiff. CITY, RICHARD WORD, and DOES 11-25, inclusive, breached their duty of care to citizens in that CITY, RICHARD WORD, and DOES 11-25, inclusive, failed to adequately train its police officers, including Defendant Officers LOUD, BOWLING, HARDISON, BONIFACIO, MILLIKEN, and DOES 1-10, inclusive, in the proper and reasonable use of force, the proper and reasonable making of arrests, and treating citizens in a manner that is not racially discriminatory, and/or failed to have adequate policies and procedures regarding the proper and reasonable use of force, the proper and reasonable making of arrests, and treating citizens in a manner that is not racially discriminatory. This lack of adequate supervisory training, and/or policies and procedures demonstrates the existence of an informal custom or policy of promoting, tolerating, and/or ratifying the continuing use of excessive and unreasonable force by police officers employed by CITY, the continuing failure to make proper and

1 reasonable arrests by police officers employed by CITY, and continuing racially discriminatory
2 behavior towards citizens by police officers employed by the CITY.

3 76. As a proximate result of defendants CITY, RICHARD WORD, and DOES 11-25,
4 inclusive's negligent conduct, plaintiffs suffered severe physical injury, severe emotional and mental
5 distress, injury having a traumatic effect on Plaintiffs' emotional tranquility, and damages.
6

7 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

8 JURY DEMAND

9 77. Plaintiffs hereby demands a jury trial in this action.

10 PRAYER

11 WHEREFORE, Plaintiffs pray for relief, as follows:

- 12 1. For general damages in a sum of \$2,000,000.00;
- 13 2. For special damages in a sum according to proof;
- 14 3. For punitive damages in a sum according to proof;
- 15 4. For injunctive relief pursuant to California Civil Code Section 52.1, enjoining
16 Defendant CITY OF OAKLAND from authorizing, allowing, or ratifying the practice
17 by any police officer employee of Defendant CITY using excessive and unreasonable
18 force against persons;
- 19 5. For violation of California Civil Code Sections 52 and 52.1, statutory damages, and
20 reasonable attorney's fees;
- 21 6. For violation of California Civil Code Section 52(b), punitive damages against
22 Defendant police officers, \$25,000.00 for each offense and reasonable attorney's fees;
- 23 7. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;
- 24 8. For cost of suit herein incurred; and
- 25 9. For such other and further relief as the Court deems just and proper.

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1 Dated: July 25, 2005

The Law Offices of John L. Burris

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John L. Burris, Esq.
Attorney for Plaintiff
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